Government of Saskatchewan

Annual Report 2005

Public and Private Rights Board

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Letter of Transmittal

February 20, 2006

Honourable Lorne Calvert
President of Executive Council

Dear Mr. Premier:

As per subsection 6(3) of *The Expropriation Procedure Act*, I have the honour to submit to you the Annual Report of the Public and Private Rights Board for the period January 1, 2005 to December 31, 2005.

Respectfully submitted,

K. W. Acton
Chairman

Staff

The staff of the Public and Private Rights Board are:

K. W. Acton, Chairman
Verna LeBlanc, Administrative Assistant

Message from the Chairman

Under *The Expropriation Procedure Act*, the Public and Private Rights Board has the authority to review matters relating to the expropriation of land or the intention to acquire land by expropriating authorities. The Board investigates claims and manages negotiations between landowners and expropriating authorities in an effort to help the parties reach mutually acceptable solutions.

Landowners may request the Board to review either or both:

a. The route, situation or design of a public improvement;
b. The amount of compensation offered for the expropriated land.

The primary role of the Public and Private Rights Board is dispute resolution. The Board assists landowners and expropriating authorities in reaching agreement on the most appropriate route or design of a public improvement and/or what fair and reasonable compensation should be paid for the required land or easement.

> *"The primary purpose of compensation is to place the owner whose land has been taken in the same position financially as he was prior to the taking. On the one hand, the owner should not receive a windfall or unjust enrichment as a result of the taking. On the other hand, the owner should not be required to shoulder an economic loss for the general public benefit which is achieved as a result of the taking."*

(Expropriation in Canada – A Practitioner's Guide, by Kenneth J. Boyd, Canada Law Book Inc., Aurora, Ontario, 1988, p.27).

The Board received a wide range of requests for assistance over this past year. In several cases, we were able to resolve the issues without creating a file or conducting a formal meeting. In these cases, the individual landowner has never faced an expropriation before, and they are unsure of their rights and obligations or where best to turn for advice or assistance in sorting out a fair and realistic arrangement with the individual agency. The Board's role was one of providing information about the processes, acting as a sounding board to help the individual landowner identify issues and concerns, and helping them make contact with the appropriate official within the expropriating authority.

In addition, the Board had five files that it was necessary to do a more formal investigation and to facilitate discussions between the landowner and the expropriating authority in an attempt to resolve disagreements over compensation. When compared to the total number of easements obtained in any year by the various expropriating agencies, the number of cases brought to the Board are extremely small. Each and every case, however, has a significant impact on the individual landowner involved. While the dispute is often categorized as a dispute over compensation, this seldom reflects the real issues or concerns of the landowner. Often, the overall design of the project is established long before the individual landowner is contacted. He/she is left in the position where negotiating an alternate route is not considered a viable option by the expropriating authority, and as a result, the discussions quickly turn to effectively compensating the landowner for an expropriation that is about to occur.

Two cases of particular interest over the past year involved Saskatchewan Department of Highways in the twinning of the #1 highway. In both situations, the Department's approach of paying appraised value for the property did not appropriately compensate the landowner or address the impact the route of the new highway would have on their home or their farming enterprises.

In one situation, the project divided a quarter section of farm land, isolating farm buildings and a livestock operation from the balance of the farm. The challenge in this particular case was to find a means in which the landowner could continue to operate his livestock enterprise in conjunction with the balance of the farm. Paying appraised value for the buildings would not provide sufficient funds to allow the owner to reestablish in a different location. Replacement costs for the buildings and corrals would be significant and to physically move the aging buildings did not appear to be a realistic solution.

Ultimately, through a mediation process, the parties were able to reach an acceptable solution for all involved.

The second situation has not yet been resolved and the file remains open. In this situation, the route of the highway requires the removal of three homes that border on a small village. The expropriating authority was able to purchase two of the homes for appraised value with the understanding that the parties, for a small fee, could have salvage rights to their homes. Our understanding is that this solution was satisfactory for both parties. The third homeowner felt that the offer was not fair and the appraised value of the home was not sufficient to allow the individual to acquire another home of similar quality in the area. If he fails to accept the agreement, he will face expropriation and ultimately, removal from his home, receiving the appraised value as settlement. A third option would be for the home to be moved to another lot within the community, however, the parties have been unable to agree on the costs involved.

We recognize this is a challenging situation for the expropriating authority who must be good stewards of public resources and be able to rationalize any expenditures of public funds. We also recognize that for an individual landowner to negotiate in the face of an expropriation order that would remove him from his home, is a daunting task. In this situation, negotiations continue and it is the Board's hope that a solution will be found that will leave the homeowner in the same position financially as he was prior to the taking of the land.

The Board would like to thank everyone who participated in collaborative problem solving processes over the past year. It is always a pleasure to work with residents of Saskatchewan. While speaking passionately about the design of specific public improvements or the compensation offered, individuals are always respectful, sincere and willing to consider the complex issues that an authority must address.

a. Number and Nature of Claims Received, Negotiated, Completed, Withdrawn and Carried Forward by the Board in 2005

i. Number and Nature of Claims Negotiated in 2005

(A) Carried forward from 2004:		
i)	Route, Situation or Design	1
ii)	Compensation	0
	Subtotal	1
(B) New claims received in 2005:		
i)	Route, Situation or Design	0
ii)	Compensation	5
	Subtotal	5
	Total	**6**

ii. Number and Nature of Claims Completed in 2005

i)	Route, Situation or Design	1
ii)	Compensation	2
	Total	**3**

iii. Number and Nature of Claims Withdrawn in 2005

i)	Route, Situation or Design	0
ii)	Compensation	0
	Total	**0**

iv. Number and Nature of Claims Carried Forward into 2006

i)	Route, Situation or Design	0
ii)	Compensation	3
	Total	**3**

b. Number and Nature of Claims Received by the Board in 2005 (by Expropriating Authority)

Expropriating Authority	Route Situation or Design	Compensation	Total
SaskTel	0	1	1
SaskPower	0	1	1
Highways	0	3	3
Miscellaneous	0	0	0

c. Number and Nature of Claims Initiated with the Board in 2005 (by Expropriating Authority)

Expropriating Authority	Route Situation or Design	Compensation	Total
SaskTel	0	1	1
SaskPower	0	1	1
Highways	0	3	3
Miscellaneous	0	0	0

d. Resolution of Claims Initiated with the Board in 2005 (by Expropriating Authority)

Expropriating Authority	Negotiated Successfully	Negotiated Unsuccesfully	Withdrawn	Total
SaskTel	1	0	0	1
SaskPower	0	0	0	0
Highways	2	0	0	2
Miscellaneous	0	0	0	0

e. Number and Nature of Claims Received by the Board (1995 – 2005)

Year	Route, Situation or Design	Compensation	Total
1995	3	3	6
1996	3	4	7
1997	2	4	6
1998	3	6	9
1999	0	2	2
2000	3	3	6
2001	2	2	4
2002	8	3	11
2003	1	2	3
2004	2	0	2
2005	0	5	5

f. Number of Claims Received by the Board by Expropriating Authority (1995 – 2005)

Year	Conservation & Development Area Authorities	SaskTel	SaskPower	SaskEnergy	Sask Hwys	Misc.
1995	0	4	0	2	0	0
1996	0	4	2	0	0	1
1997	0	2	3	0	0	1
1998	0	4	2	0	1	2
1999	0	1	0	0	0	1
2000	0	4	0	0	2	0
2001	0	1	0	0	1	2
2002	2	1	0	0	7	1
2003	0	0	1	0	1	1
2004	0	1	0	0	0	1
2005	0	1	1	0	3	0